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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,271	07/15/2003	Jeffrey L. Brewer	1001.01	3522
7590 03/24/2005			EXAMINER	
Janice Leverett Suite 406 5650 Grissom Road San Antonio, TX 78238			DOSTER GREENE, DINNATIA JO	
			ART UNIT	PAPER NUMBER
			3743	

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED

APR 01 2005

TECHNOLOGY CENTER R3700

Office Action Summary	Application No. 10/623,271	Applicant(s) BREWER, JEFFREY	
	Examiner Dinnatia Doster-Greene	Art Unit 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Detail Action</u> . |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: Inconsistent usage of reference numeral "30". reference numeral "30" has been used to refer to "metacarpal unit 30" on page 8, line 23 and "connector 30" on page 10, line 14.

Appropriate correction is required.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: **Reference numerals 42, 22, 23, 58.** Applicant should note that **this list of reference numerals is illustrative only as other reference numerals may be omitted from the drawings.** The applicant is advised to peruse the drawings to identify other informalities. Furthermore, in Figure 8, the reference number inserted between numbers 95 and 50 is not legible. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be.

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notified and informed of any required corrective action in the next Office action.

The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 1 is objected to because of the following informalities: The phrase "hand unit" should be changed to "metacarpal unit". Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 1-13 rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: The fastening means and the received fasteners recited in the claims. It is unclear whether the fastening means constitutes the fasteners received therein. Furthermore, it is unclear whether multiple sets of fasteners are employed in the device.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baum (U.S. Patent No. 6,141,889) in view of Rosendahl et al. (U.S. Patent No. 5,769,896). Baum discloses the process of scanning and measuring a user's physiological area, developing a mold for the orthotic device and fabricating the orthotic device. However, Baum does not specifically disclose the use of a wet lay-up process. Rosendahl, which relates to manufacturing an orthotic device, teaches that it is known to produce an orthotic device by employing a wet lay-up molding technique (Rosendahl, col. 2, line 1). Thus, it would have been obvious to one skilled in the art to fabricate the foot support of Baum utilizing the wet-lay up process of Rosendahl for providing a custom fit orthotic support.

Conclusion

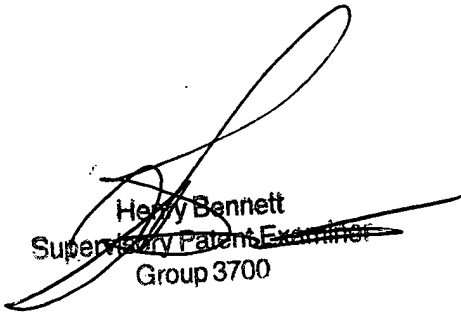
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinnatia Doster-Greene whose telephone number is 571-272-7143. The examiner can normally be reached on 8:30-4:30.

Art Unit: 3743

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-271-7143.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ddg



Henry Bennett
Supervisory Patent Examiner
Group 3700

Substitute for form 1-400VPTD

400-50 many streets in Amsterdam

Street

Complete If Known

Application Number	unknown
Filing Date	07/16/03
First Named Inventor	Jeffrey L. Brown
Art Unit	unknown
Examiner Name	unknown
Attorney Docket Number	1006.00

[illegible][illegible]

Examiner Signature N. Parker-Greene

Date Considered	3/20/05
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*EXAMPLE: Initial if reference considered, whether or not citation is in conformance with MPEP 605. Draw line through class if not in conformance and not considered. Include copy of this form with said communication to applicant. 1 Applicant's unique citation designation number (optional). 2 One Page Code from USPTO Patent Documents at www.uspto.gov or MPEP 601.04. 3 If Patent Office that issued the document, by the two-letter code (WIPO Standard 57.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard 57.16 if possible. 6 Applicant is to place a check mark here if English language translation is attached.

This collection of information is required by 37 CFR 1.57 and 1.58. The information is required to obtain or retain a benefit by the public which is to the (and by the USPTO to process) an application. Confidentiality is governed by 38 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. There will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. Do NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. 888610 TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-FTD-9199 and select option 2.

Notice of References Cited	Application/Control No. 10/623,271	Applicant(s)/Patent Under Reexamination BREWER, JEFFREY	
	Examiner Dinnatia Doster-Greene	Art Unit 3743	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-5,769,896	06-1998	Rosendahl et al.	623/49
	B	US-6,141,889	11-2000	Baum, Ira M.	36/140
	C	US-6,804,571	10-2004	Fullen et al.	700/118
	D	US-6,823,550	11-2004	Kantro, Scott R.	12/142N
	E	US-1,377,103	05-1921	ANTHON SUHR	2/16
	F	US-859,384	07-1907	Heser, J. S.	30/123.5
	G	US-810,098	01-1906	Walter, T. P.	30/123.5
	H	US-645,515	03-1900	Ramsey, J. A.	30/123.5
	I	US-3,438,630	04-1969	PETTI JOSEPH	473/60
	J	US-5,846,168	12-1998	Murray, Jeffrey L.	482/105
	K	US-4,677,971	07-1987	Lindemann, Peer	602/21
	L	US-6,827,653	12-2004	Be, Sung-Hoan	473/62
	M	US-6,723,061	04-2004	Williams, George Roger	602/21

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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